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Filing date: **01/11/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92051140
Party	Plaintiff Leonid Nahshin
Correspondence Address	VERA CHERNOBYLSKY LAW OFFICES OF VERA CHERNOBYLSKY 4623 DUNMAN AVENUE WOODLAND HILLS, CA 91364 UNITED STATES vchernob@yahoo.com
Submission	Other Motions/Papers
Filer's Name	Vera Chernobylsky
Filer's e-mail	vchernob@yahoo.com
Signature	/Vera Chernobylsky/
Date	01/11/2011
Attachments	Motion to take Foreign deposition Slobidker.pdf (4 pages)(168296 bytes)

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL & APPEAL BOARD**

Leonid Nahshin,
Plaintiff-Petitioner

v.

Product Source International, LLC
Defendant-Respondent

Petition No.: 92/051,140
Registration No.: 3,350,041
Mark: NIC-OUT
Interlocutory Attorney:
Ann Linnechan, Esq.

**MOTION TO TAKE TESTIMONIAL DEPOSITION IN FOREIGN COUNTRY
UPONWRITTEN QUESTIONS**

I, Vera Chernobylsky, attorney for Plaintiff-Petitioner, Leonid Nahshin, (thereafter "Petitioner") state it is necessary in the above-entitled case to take the depositions of the following people in the state or country of Canada:

Alexander Slobidker.

Pursuant to Trademark Rule **37 CFR § 2.123(a)(2)**, a testimonial deposition taken in a foreign country shall be taken by deposition upon written questions as provided by **§2.124**, and based on the above declaration, Vera Chernobylsky, moves this Honorable Tribunal for an order issuing a commission for depositions to be taken in the state or country of Canada and that the commission be effective for 30 day(s) from the date of signing by the clerk.

Relevant Facts

Alexander Slobidker, a Canada Citizen located and doing business at 59 Haven Rd Maple, ON L6A0W8, Canada.

Alexander Slobidker's testimony is relevant to this case due to Alexander Slobidker's position as the manager of the Petitioner's company "P. Service", solely engaged in business of selling, promoting and advertising Petitioner's Trademark NIC-OUT.

Alexander Slobidker as the manager has personal knowledge of the following facts:

1. All sale transactions, advertising, promotions, marketing and business relations of the Petitioner's Trademark NIC-OUT since year 2000.
2. First shipment being forwarded to Yael Menkin in year 2000.
3. Registration of the domain nic-out.com and website www.nic-out.com.
4. Direct sales of "NIC-OUT" in the United States.
5. All articles on the website were written by Petitioner.
6. Sending of the Shipments in early April 2002, as major industrial cargo of "NIC-OUT" to United States for "Safety Aid Supplies, Inc."
7. Major shipment sent to United States in September 2002.
8. In October 2002, "Safety Aid Supplies Inc." ordered its barcode for packs made by Petitioner's company for the United States.
9. Agreement with Mr. Maslov, owner of "Safety Aid Supplies, Inc".
10. Petitioner first use of the mark NIC-OUT in connection with the above-identified goods in interstate commerce at least as early as October 1, 2000.
11. Petitioner's use of the mark NIC-OUT in connection with the above-identified services has been continuous since on or about October 1, 2000.
12. Petitioner has invested significant sums of money in the promotion of the mark NIC-OUT and the Petitioner's goods in the United States.

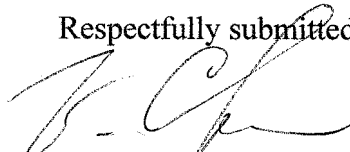
13. Petitioner was barred by the Defendant – Respondent, Product Source International, LLC (hereinafter “Respondent”) to deliver and sell in United States Petitioner’s product under Petitioner’s Trademark NIC-OUT.
14. Petitioner has developed a valuable reputation and goodwill in its NIC-OUT mark and has achieved a following among the relevant consuming public prior to the filing, registration and/or priority date of Registrant’s mark NIC OUT identified more fully in U.S. Registration No. 3,350,041.
15. Petitioner’s consumers confronted with the Respondent’s mark NIC OUT will inevitably be confused and deceived into the mistaken belief that the Respondent’s goods have their origin or are in some manner connected with the Petitioner and/or Petitioner’s goods offered in connection with his NIC-OUT mark.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

DATED: January 12, 2011

By:

Respectfully submitted,



Vera Chernobylsky, Esq.
Attorney of Record for Leonid Nahshin
LAW OFFICES OF VERA CHERNOBYLSKY
Tel: 818-251-6783
Fax: 818-638-7844
E-mail: Vchernob@yahoo.com
Website: www.VChernPatLaw.com
4623 Dunman Avenue
Woodland Hills, California, 91364

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board

In the matter of U.S. Registration 3,350,041,
For the mark NIC OUT,
Registered on the Principal Register on December 4, 2007.

Leonid Nahshin,

Petitioner,

vs.

Product Source International, LLC,

Registrant.

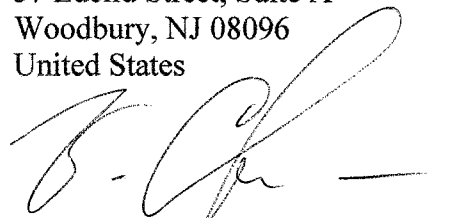
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Petition No. 92051140

CERTIFICATE OF SERVICE

I HERBEY CERTIFY that a true and accurate copy of the foregoing Plaintiff-Applicant's First Set of Requests for Production of Documents was submitted, this 12 day of January, 2011, to the following via fax and first-class U.S. Mail, postage pre-paid:

Anthony J. DiMarino
A.J. DiMarino P.C.
Fax: 856.853.0055
57 Euclid Street, Suite A
Woodbury, NJ 08096
United States



Vera Chernobylsky, Esq.